

## § 390.285

such person has a substantial beneficial interest or as to which such person or his or her spouse serves as trustee or in a similar fiduciary capacity.

### § 390.285 Audit period.

The *audit period* of a State savings association means the twelve month period (or other period in the case of a change in audit period) covered by the annual audit conducted to satisfy § 390.350.

### § 390.286 Certificate account.

The term *certificate account* means a savings account evidenced by a certificate that must be held for a fixed or minimum term.

### § 390.287 Consumer credit.

The term *consumer credit* means credit extended to a natural person for personal, family, or household purposes, including loans secured by liens on real estate and chattel liens secured by mobile homes and leases of personal property to consumers that may be considered the functional equivalent of loans on personal security: *Provided*, the State savings association relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than the real estate or mobile home, as the primary security for the loan. Appropriate evidence to demonstrate justification for such reliance should be retained in a State savings association's files. Among the types of credit included within this term are consumer loans; educational loans; unsecured loans for real property alteration, repair or improvement, or for the equipping of real property; loans in the nature of overdraft protection; and credit extended in connection with credit cards.

### § 390.288 Controlling person.

The term *controlling person* of a State savings association means any person or entity which, either directly or indirectly, or acting in concert with one or more other persons or entities, owns, controls, or holds with power to vote, or holds proxies representing, ten percent or more of the voting shares or rights of such State savings association; or controls in any manner the

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election or appointment of a majority of the directors of such State savings association. However, a director of a State savings association will not be deemed to be a controlling person of such State savings association based upon his or her voting, or acting in concert with other directors in voting, proxies:

(a) Obtained in connection with an annual solicitation of proxies, or

(b) Obtained from savings account holders and borrowers if such proxies are voted as directed by a majority vote of the entire board of directors of such association, or of a committee of such directors if such committee's composition and authority are controlled by a majority vote of the entire board and if its authority is revocable by such a majority.

### § 390.289 Corporation.

The terms *Corporation* and *FDIC* mean the Federal Deposit Insurance Corporation.

### § 390.290 Demand accounts.

The term *demand accounts* means non-interest-bearing demand deposits that are subject to check or to withdrawal or transfer on negotiable or transferable order to the State savings association and that are permitted to be issued by statute, regulation, or otherwise and are payable on demand.

### § 390.291 Director.

The term *director* means any director, trustee, or other person performing similar functions with respect to any organization whether incorporated or unincorporated. Such term does not include an advisory director, honorary director, director emeritus, or similar person, unless the person is otherwise performing functions similar to those of a director.

### § 390.292 Financial institution.

The term *financial institution* has the same meaning as the term *depository institution* set forth in 12 U.S.C. 1813(c)(1).

### § 390.293 Immediate family.

The term *immediate family* of any natural person means the following

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(whether by the full or half blood or by adoption):

(a) Such person's spouse, father, mother, children, brothers, sisters, and grandchildren;

(b) The father, mother, brothers, and sisters of such person's spouse; and

(c) The spouse of a child, brother, or sister of such person.

### § 390.294 Land loan.

The term *land loan* means a loan:

(a) Secured by real estate upon which all facilities and improvements have been completely installed, as required by local regulations and practices, so that it is entirely prepared for the erection of structures;

(b) To finance the purchase of land and the accomplishment of all improvements required to convert it to developed building lots; or

(c) Secured by land upon which there is no structure.

### § 390.295 Low-rent housing.

The term *low-rent housing* means real estate which is, or which is being constructed, remodeled, rehabilitated, modernized, or renovated to be, the subject of an annual contributions contract for low-rent housing under the provisions of the United States Housing Act of 1937, as amended.

### § 390.296 Money Market Deposit Accounts.

(a) *Money Market Deposit Accounts (MMDAs)* offered by State savings associations in accordance with applicable state law are savings accounts on which interest may be paid if issued subject to the following limitations:

(1) The State savings association shall reserve the right to require at least seven days' notice prior to withdrawal or transfer of any funds in the account; and

(2)(i) The depositor is authorized by the State savings association to make no more than six transfers per calendar month or statement cycle (or similar period) of at least four weeks by means of preauthorized, automatic, telephonic, or data transmission agreement, order, or instruction to another account of the depositor at the same State savings association to the State

savings association itself, or to a third party.

(ii) State savings associations may permit holders of MMDAs to make unlimited transfers for the purpose of repaying loans (except overdraft loans on the depositor's demand account) and associated expenses at the same State savings association (as originator or servicer), to make unlimited transfers of funds from this account to another account of the same depositor at the same State savings association or to make unlimited payments directly to the depositor from the account when such transfers or payments are made by mail, messenger, automated teller machine, or in person, or when such payments are made by telephone (via check mailed to the depositor).

(3) In order to ensure that no more than the number of transfers specified in paragraph (a)(2)(i) of this section are made, a State savings association must either:

(i) Prevent transfers of funds in excess of the limitations; or

(ii) Adopt procedures to monitor those transfers on an after-the-fact basis and contact customers who exceed the limits on more than an occasional basis. For customers who continue to violate those limits after being contacted by the depository State savings association the depository State savings association must either place funds in another account that the depositor is eligible to maintain or take away the account's transfer and draft capacities.

(iii) Insured State savings associations at their option, may use on a consistent basis either the date on a check or the date it is paid in determining whether the transfer limitations within the specified interval are exceeded.

(b) State savings associations may offer MMDAs to any depositor not inconsistent with applicable state law.

### § 390.297 Negotiable Order of Withdrawal Accounts.

(a) *Negotiable Order of Withdrawal (NOW)* accounts are savings accounts authorized by 12 U.S.C. 1832 on which the State savings association reserves the right to require at least seven days' notice prior to withdrawal or transfer of any funds in the account.